

Service Date: August 5, 1985

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

\* \* \* \* \*

IN THE MATTER of the Application)	TRANSPORTATION DIVISION
of KAL LEASING, INC., Billings, )	
Montana, for a Class B Certificate )	DOCKET NO. T-8503
of Public Convenience and )	
Necessity. )	ORDER NO. 5391

\* \* \* \* \*

FINAL ORDER

\* \* \* \* \*

APPEARANCES

FOR THE APPLICANT:

Joe Gerbase, of the Law Firm of Anderson, Brown, Gerbase, Cebull & Jones, 315 North 24th, Billings, Montana, appearing on behalf of Applicant, Kal Leasing, Inc.

FOR THE PROTESTANT:

William E. O'Leary, O'Leary & McCarthy, Suite 4G, Arcade Building, 111 North Last Chance Gulch, Helena, Montana 59601, appearing on behalf of Protestant, Karst Stage, Inc.

FOR THE COMMISSION:

Eileen E. Shore, Staff Attorney, 2701 Prospect Avenue, Helena, Montana 59620

BEFORE:

TOM MONAHAN, Commissioner and Hearing Examiner

JOHN DRISCOLL, Commissioner  
DANNY OBERG, Commissioner

The Commission, having taken evidence and being fully advised in the premises, hereby issues the following Findings of Fact, Conclusions of Law and Order.

### FINDINGS OF FACT

#### BACKGROUND

1. The Applicant, Kal Leasing, Inc., 425 Sugar Avenue, P.O. Box 31133, Billings, Montana 59107 (Applicant), has applied for a certificate of public convenience and necessity, Class B, authorizing the transportation of passengers and baggage between all points and places in the State of Montana, subject to the following limitations: All movements must originate and terminate east of the western boundaries of the following Counties: Phillips, Petroleum, Wheatland, Sweet Grass, Yellowstone and Big Horn. (For clarification of limitation, Fergus, Stillwater and Carbon Counties are defined as west of this line, and thus excluded from this authority.)

2. Protest was received to this application and a notice of public hearing was issued setting the hearing at 9 a.m. on Tuesday, April 2, 1985, in Room 3043, Federal Building, 316 North 26th Street, Billings, Montana.

3. Pursuant to the notice, the hearing was conducted as noticed. All Protestants withdrew from this application with the exception of Karst Stage, Inc.

### SUMMARY OF TESTIMONY

#### Testimony of Applicant

4. Charles Simonsen, General Manager of Applicant's operations in Montana, testified in support of the application. (TR 7-8) Mr. Simonsen sponsored Exhibit A, a map depicting the scope of the application; Exhibit B, copy of Billings High School District No. 2 bus contract with Kal Leasing, Inc. dated May 7, 1984; Exhibit C, depicting Kal Lines interstate authority under MC-166690 authorizing charter coach movements between points in Yellowstone County, Montana and points in the United States; Exhibit D, a list of Kal Lines equipment stationed at Billings, Montana; Exhibit E, the proposed tariff under which the Applicant proposes to operate, if this application is granted and Exhibit F, financial statements of Kal Leasing, Inc., for the period ending December 31, 1984 as compared to the same period for 1983.

5. Since 1977, Applicant has been providing service for School District No. 2 under contracts similar to that of Exhibit C. (TR 11) This contract, though initially bid, is renewed through negotiation at the end of each term. (TR 7) Applicant also has school contracts with Lockwood School System, Morin Elementary System and Canyon Creek System. Under these later contracts, Applicant commits 14 buses and under the contract with School District No. 2, commits 79 buses. (TR 13) In addition, Applicant provides charter service on an interstate basis, as depicted on Exhibit C. (TR 12)

6. Applicant has the following equipment currently stationed in Billings: Nine wheelchair buses, all of which are able to transport eight wheelchair passengers and twelve regular passengers, with the exception of one which can transport six wheelchair passengers and ten regular passengers (TR 17); three passenger coaches (TR 17); six eight to twelve passenger vans (TR 16); and eighty-one forty-four to forty-eight passenger buses. (TR 15-16)

7. The Applicant can make its school buses available on the following basis: between 8:00 and 8:30 a.m. and 3:00 and 3:30 p.m., it can make available four school buses and three coaches for the purposes of this application. Very shortly on either side of these two half-hour periods, Applicant can make ten to twenty school buses available for service and during mid-day can make

forty buses available to the general public. Fifteen to twenty buses are committed to school business during the summer months. The three coaches are usually used on weekends. The school system gives Applicant approximately two months advance notice on its need for the coaches. Other than the commitments referred to above, the equipment is available for extra charter work. (TR 19-22)

Applicant indicates that it has the ability to purchase additional equipment, if needed. (TR 22) Applicant's terminal facility, located on 425 Sugar Avenue, has two bus barns, each of which holds 44 buses or coaches. There is four bay mechanic shops on site. (TR 23)

8. Applicant provides dispatching services from 5:30 a.m. until 5:15 p.m. through two regular dispatching personnel. The Applicant maintains a list of drivers who have keys to the gates in order to provide fast emergency service; in addition, calls may be placed directly to Mr. Simonsen. (TR 25) There are approximately 15 drivers capable of providing night service because of this arrangement. Applicant has approximately 100 drivers in its employ. (TR 25)

9. Applicant is willing to provide its skills and bus scheduling to assist the Billings area in the event such are needed. (TR 25) Applicant intends at this time to employ the rates specified on Exhibit E. (TR 26)

10. Applicant has an extensive preventive maintenance program requiring periodic inspections of equipment. (TR 22-23) The company has never been reprimanded or fined for violating any regulatory laws of the State of Montana. (TR 27) Ron Miner, Safety officer for Applicant, introduced Exhibit G on behalf of the Applicant which lists its accidents since January, 1979. Based upon the more than 900,000 miles of annual city driving performed by the drivers, the safety record of Applicant is a good one. (TR 121-133)

11. Jack Anderson, owner and manager of Airport Metra Inn, testified in support of the application. (TR 53) Mr. Anderson has 35 years of experience in the hotel business, with the last 11 years in Billings managing the Northern Hotel. He is presently director of the Billings Hotel-Motel Association and the Montana Innkeepers Association and is past-president of both. (TR 54-55)

12. Anderson's motel is presently running at an approximate 64 percent occupancy rate which is 10-15 percent below the national average. This motel has 200 beds. (TR 50, TR 54) Anderson's motel could accommodate an additional 3,790 persons annually. This would still leave

his motel with a 20 percent vacancy rate. The entire Billings area has 3,000 motel/hotel rooms and an average 64 percent occupancy rate. (TR 55)

13. The Chamber of Commerce, in conjunction with the hotel/motel association, recently hired a salesperson for the purpose of promoting larger conventions of a regional or national level majoring from 1,000 to 5,000 people. (TR 59) Billings has presently obtained as many of the local Montana conventions as it can. (TR 56) The innkeepers and Chamber of Commerce are presently embarking on an aggressive campaign to encourage these larger conventions.

14. The witness indicated that it is necessary to have adequate ground transportation in order to attract large conventions. (TR 64) This ground transportation is necessary in order to solicit the conventions. This is true even though the conventions themselves will not come to Billings for approximately one and a half to three years. (TR 63) The needed ground bus transportation amounts to 10 buses per 1,000 convention goers. Thus, a convention of 3,000 convention goers requires approximately 30 buses. (TR 61)

15. Origination and designation points for the bus service needed would be to points of interest such as Yellowstone Park, Custer Battle Field, Pompeys Pillar, Yellowstone Kelly's Monument, Western Heritage Center, Yellowstone Art Gallery, over 300 restaurants and 35 hotels. (TR 69) The major hotels have in the past participated in the payment for chartering such bus transportation.

16. The witness' testimony regarding present and future need was rather tentative, since it depended on the number of conventions Billings might be able to attract. He was unable to provide specific information as to the actual number of buses that would be required to travel between points in the state in connection with Billings conventions.

17. Walter Shopfer, Fire Management Officer for the Bureau of Land Management (BLM), testified on behalf of his agency. He has held his position in Billings for four years and as such is in charge of fire management for the BLM in Montana, North Dakota and South Dakota. His offices are in Billings. As a part of his duties, he supervises the dispatching for all fires in the eastern half of the State of Montana. The BLM handles overall dispatching functions for land managed by the BLM, Bureau of Indian Affairs, U.S. Forest Service, U.S. Fish and Wildlife Service and the State of Montana. (TR 73-74)

18. Schopfer indicated that Montana experiences heavy fire activity eight out of ten years. The usual time spent on such fires is June through September of each year. There is no way to predict when such fires will occur. Fire calls are usually received by his office at night. (TR 76-77)

19. Schopfer's agency usually charts school buses for the transportation of firefighters and equipment. A 40-passenger bus is usually used for 20 people and their equipment. The bus and equipment are used at the fire site during the fire activity. (TR 79)

20. Pickups for men and equipment usually come from Billings or from various towns around the reservations such as Wolf Point, Hardin and all of the towns on the Rocky Boy Reservation, Fort Belnap Reservation, North Cheyenne Reservation and Crow Reservation, all of which are in eastern Montana.

21. In the summer of 1984, the BLM used 10 to 15 buses in June, 30 buses in July and August and more in September, when there were 9,000 people fighting fires.

22. On August 27, September 2, September 6 and September 19, the Protestant in this case was unable to provide school buses needed by BLM. Otherwise, the Protestant's service was satisfactory. (TR 83) In addition, the witness indicated that in 1980, 1981 and 1983, Protestant was not able to provide equipment at different times. The year 1982 was a light year for fires, and the Protestant was able to provide all the service needed. (TR 93)

23. On the occasions when Karst is unable to provide service, BLM uses buses from western Montana. However, he was unable to remember any time when he brought crews from the west side to the east side solely because he could not get adequate transportation on the east side. (TR 92)

24. The agency for which this witness has testified has a policy of hiring only licensed commercial carriers. (TR 90) However, Schopfer was not aware that he could contract with unlicensed carriers. (TR 89)

25. Schopfer indicated that having an additional 80 44-passenger buses available would be advantageous to the BLM. However, he also stated that even if the application is granted he would continue his method of using Karst's service first. The Applicant's service would be used as a backup. (TR 84)

26. Hans Behrends, General Manager of the Sheraton Hotel in Billings, testified for the Applicant. He has been manager of the hotel for three months. Prior to that time, he had worked for 14 years for Sheraton. His duties include the supervision of all activities of the hotel.

27. The hotel has 300 rooms. Its occupancy rate is presently between 62 and 64 percent; Behrends would like to have an 85 percent occupancy rate. (TR 96-97) Behrends indicated that larger conventions of the regional and national scale coming to Billings would help meet his occupancy rate goal. (TR 98) In order to solicit large conventions, it is necessary to have an integrated ground transportation system available. (TR 99) The conventions being solicited to date require a three to four to five year lead time. The convention soliciting activities of Billings have been increased up through the hiring of a marketing director for the Metra Convention Center, and the hiring of a tourism director by the Chamber of Commerce.

28. The Sheraton has historically participated in the hiring of transportation in cooperation with other major hotels to accommodate larger conventions. (TR 107)

29. School buses of the 44 to 48-passenger variety are adequate for 70 percent of the required transportation for conventions. For the other 30 percent of the bus needs, over-the-road coaches are more appropriate. In addition, side trips to such places as the Custer Battlefield require the use of such coaches. (TR 100)

30. Behrends estimated that 11 to 12 buses per thousand convention goers is necessary to get people around Billings. The number could go up to as high as 15 to 20 buses per thousand, depending on the particular convention. (TR 102-103) Behrends indicated that the need for buses to serve conventions would be heaviest for eight out of twelve months, winter excluded. (TR 103) Behrends indicated that the origination and designation points would be much similar to that testified to by Anderson, although he offered no testimony regarding the actual number of buses that would be needed for transportation services between particular points in Montana. (TR 104)

31. John Rabenberg of Wolf Point, Montana, testified on behalf of the Wolf Point Chamber of Commerce. Rabenberg is employed by the Chamber as Executive Vice-President, a position he has held for nine years. (TR 109)

32. Rabenberg testified that the Missouri Valley Trail Bus Line had served his community with charter service in the past. However, this bus service is no longer operating.

According to Rabenberg, Wolf Point needs a carrier with a good safety record and good equipment. Based on his personal knowledge of the condition of the Applicant's equipment, Rabenberg testified that it is adequate. (TR 111)

33. Rabenberg stated that the Chamber would coordinate and pay for business trips by charter to such places as Colstrip and other spots in Montana one to two times per year. (TR 112) In addition, Rabenberg indicated that there were two senior citizen groups which might utilize such service for trips to places like Glacier Park and West Yellowstone. He further indicated that the local Lion's Club would also use such service. (TR 113-114)

34. Dixie Halvorson, a resident of Scobey, testified on behalf of the Scobey Chamber of Commerce. Halvorson is President of that organization. Her duties include the promotion of economic activity in Daniels County and Scobey and the coordination of Chamber activities. (TR 115-116)

35. Halvorson indicated that she was not aware of any intrastate bus service to Scobey. (TR 117) Halvorson also indicated that having a charter bus service into and out of the community of Scobey would be advantageous. She testified that the Chamber of Commerce would be involved in coordinating charter bus service activities for the community. Halvorson stated that she has been involved in these activities in the past. This service would be used for charter service to Class C and B tournaments, to Bobcat-Grizzly games and other similar events. (TR 117) It would involve trips to such places as Missoula, Great Falls, Bozeman, and Billings. (TR 119)

36. Scobey needs the proposed service approximately four times a year. (TR 118) The only other bus service in the general area is Neville Transit of Plentywood. She used this service once, and found that the equipment was uncomfortable and was not heated. According to Halvorson, such service is inadequate for her needs. (TR 119)

37. George Sarston, Bus Chairman for the Lutheran Church of the Good Shepherd for the past eight years and Transportation Coordinator for St. Johns Lutheran Home, testified in support of the application. (TR 134) The Lutheran Church of the Good Shepherd has a bible camp located at McCloud, and makes approximately 20 round trips per year, from the second week in June through Labor Day. (TR 135) The transportation service involves movement of children from the church facility located on 24th Street West in Billings, to the campsite, where the bus stays for



approximately five to ten days and then returns with the passengers. (TR 136) Each trip may involve the movement of as many as 66 children. (TR 137)

38. The Lutheran Church has its own school bus and, therefore, only needs service of regulated carriers when the bus breaks down or when they have more children than the bus can carry. It needs service during the summer months, three to five times per year. (TR 137)

39. The church is only able to give regulated carriers a couple of hours notice for its need for equipment. The Protestant has informed him that they need at least 24 hours notice before being able to provide such service. Because of the delay, the church has had to rent equipment in order to move its children to camp. (TR 138)

40. St. Johns Lutheran Home is a retirement home located at 3940 Rimrock Road, Billings. It has several hundred patients. (TR 140)

41. The retirement home takes patients to places like Huntley, Park City, Laurel, Roundup and Molt on day trips. All of the patients who go on such trips must be ambulatory because the home does not have access to wheelchair buses with lifts; therefore, the wheelchair buses possessed by the Applicant would be very helpful. (TR 141) Sarston was not aware of anyone except Kal Lines which can provide such buses. (TR 142) The home averages two bus trips per month with these wheelchair buses during the summer months and fewer trips during the winter months.

42. John Deeney is Assistant Superintendent for business of the Billings School System. There are approximately 16,000 pupils in the school system.

43. The school system has a contract with the Applicant. Under that contract, the Applicant is required to have coaches. The school system is in the process of adding another high school. The addition of that high school, plus increased busing requirements for girls' sports will increase the need for coaches by 50 percent. Deeney supported this application because if the Applicant is able to obtain the additional authority, it will have enough business to support more coaches; this will indirectly benefit the school system. In the past, shortages of coaches have required the school system to deadhead buses into Billings from Great Falls and Bozeman. This has cost the school system \$180 to \$258 in deadhead charges. The witness recalled six occasions when

it was necessary to bring in buses from these locations. Such charges would tend to be eliminated if Kal Lines were able to support additional buses through outside business. (TR 145-154)

44. Bruce Vanica, President and owner of the Yellowstone County Fun Tours, located in Billings, Montana, testified on behalf of the application.

45. Vanica promotes six trips per year for senior citizens to such places as Canada, California, Oregon, Florida and the New England states. In order to acquaint senior citizens with bus trips, he also runs three intrastate trips per year in Montana, called Mystery Trips. (TR 156) These mystery trips last three days. (TR 157) As a rule, the senior citizens using these mystery trips are picked up in Billings by buses after arriving there from such places as Forsyth, Miles City and Glendive. (TR 159) They then go to virtually any place in Montana. Vanica refused to disclose the exact nature of such tours since to do so would compromise the "mystery" of the trips. (TR 159) Vanica testified that there was no charter bus service from such places as Plentywood, Wolf Point, Sidney, Forsyth or Baker. In addition, he testified that he was unaware of any carrier that was able to provide a comprehensive service into and out of his service area. (TR 163)

46. Vanica enlists at least 30 persons per trip. If the application were approved, he would promote his service more heavily in eastern Montana. (TR 161)

47. The Applicant's buses have been personally inspected by Vanica and he concluded they would fill his needs. (TR 161)

48. Vanica refuses to use Karst's services because he considers it a competitor.

49. Robin Grinsteiner, an employee of the City of Billings, testified in support of the application. She is the Director of the Billings Community Center, also known as the Billings Senior Citizens Center. (TR 166-167)

50. The Senior Citizens Center is a nonprofit corporation. As a part of Mrs. Grinsteiner's duties, she coordinates day trips for the senior citizens, which go to such places as Laurel, Red Lodge, Miles City, Lewistown and also most any other place where a round trip can be made between 7 a.m. and 6 p.m. (TR 167-168) She schedules one to two trips per month during the Spring, Summer and Fall by using a combination of coaches and school buses. (TR 169) She collects money from the senior citizens and calls the bus lines for service. (TR 170) The Senior Citizens Center does not own any buses. (TR 170)

51. Grinsteiner has found that people in walkers and wheelchairs cannot go on these trips. There are approximately 15 of these people in the Senior Citizens Center. The Applicant's wheelchair buses would allow these handicapped people to take day trips. She estimated that at least one such person would go on each trip. The total usage of the Applicant's wheelchair equipment would be one to two times per month. (TR 170) Grinsteiner was not aware of any other bus line offering such service. (TR 171)

52. When Grinsteiner used Karst's service she experienced several breakdowns and people complained of bus exhaust smoke in the bus. She has been reluctant to use Karst since, based in part on its higher rates. (TR 173)

#### Testimony of Protestant

53. Jerry Perkins, President of Karst Stage, Inc., testified on behalf of Protestant, Karst Stage, Inc., in opposition to the application. He stated that for calendar year 1984, his company has experienced a net loss of \$94,888. He further testified that in 1984, 57.4 percent of his intrastate charter business was generated in Billings. This compared with 46 percent of intrastate charter being generated in Billings in fiscal year 1983. Perkins testified that his entire operations had experienced to date a net loss of \$63,679. This net loss figure arose because of the existence of competition from other carriers, a decline in daily business and a drastic increase in insurance rates, which greatly increased the cost of doing business.

54. Perkins testified that he was protesting this application because the Applicant held a contract with the Yellowstone County School System under which the Applicant was paid for services throughout the year. Nonetheless, Applicant now seeks to divert traffic from Karst, with a consequent reduction in its revenues.

Although the witness acknowledged that certain operating expenses were not allocated to all three cities on its system -- Helena, Bozeman and Billings -- the expenses, including depreciation, insurance, mechanics' time, interest expense and repair were properly allocated throughout its system so that the net loss reflected in the annual report was correct.

#### DISCUSSION, ANALYSIS AND CONCLUSION

55. An applicant desiring to transport passengers and baggage as a Class B carrier is required to obtain a certificate of public convenience and necessity from the Commission. Section 69-12-311 through 69-12-313, MCA.

56. The Commission in considering such an application is governed by the provisions of 69-12-323, MCA, Paragraph (2)(a) of that Section provides as follows:

If after hearing upon application for certificate, commission finds from the evidence that public convenience and necessity require the authorization of the service proposed or any part thereof, as the commission shall determine, a certificate therefor shall be issued. In determining whether a certificate should be issued, the commission shall give reasonable consideration to the transportation service being furnished or that will be furnished by any railroad or other existing transportation agency and shall give due consideration to the likelihood of the proposed service being permanent and continuous throughout 12 months of the year and the effect which the proposed transportation service may have upon other forms of transportation service which are essential and indispensable to the communities to be affected by such proposed transportation service or that might be affected thereby.

57. The standards to be applied by the Commission in considering applications for Class B operating authority have been defined by the Commission:

- (a) First, the Commission must determine that "Public Convenience and Necessity require the authorization of the service proposed." This necessarily will include consideration of the existing service.
- (b) Second, the Commission must consider the ability and dependability of the Applicant to meet any perceived additional public need.
- (c) Third, the Commission must consider the impact that the proposed service would have upon existing transportation services. (Order No. 4296, Finding No. 59; Docket No. T-6167a)

58. In this case, the Applicant has requested Class B authority to transport passengers and baggage with the limitation noted in Finding No. 1. Therefore, the question in this case is whether there is a need for new authority to haul passengers and their baggage between all points and places in Montana under that restriction. No carriers protested this application with the exception of Karst Stages, Inc. For the most part, few carriers have authority to originate and terminate charter services anywhere within the scope of this application except as it includes Billings, which is the focus of the majority of the business.

59. The Applicant demonstrated that its backlog of equipment would be available for an extensive period of time. The Commission bases this conclusion upon the fact that Applicant has held its contract with the Billings School System since 1977 and even had the School District appear in support of its application. The type of equipment and the cleanliness of the equipment used by the Applicant has been independently verified by several of the shipper witnesses who found it to be satisfactory. The Applicant appears to have an extensive preventive maintenance program, an extensive safety procedure and a good safety record.

60. The evidence presented by hotel operators and chamber of commerce representatives suggests some need for convention related transportation in the Billings area. Although most of the testimony was based on the hope for increased convention business in the future, the Commission finds the evidence deserves some weight, since proposals for future conventions must be able to offer an assurance that adequate ground transportation is available. The Commission finds that the need centers around Billings and the surrounding areas.

61. The testimony of George Sarsten clearly established a need for transportation services from Billings to a children's camp in Sweetgrass County. This testimony was un rebutted.

62. Both Sarsten and Robin Grinsteiner clearly established a need for busses that can accommodate passengers who are wheel chair bound. According to the un rebutted evidence, Kal has such equipment, while Karst does not. The area in which this service is needed is concentrated in such areas as Huntley, Park City, Laurel, Roundup and Molt (TR 141), as well as areas that can leave and return to Billings within one day. (TR 168) Most of these locations could be reached under the authority granted by this order, except to the extent that some are excluded by the Application itself (Lewistown and Red Lodge).

63. Bruce Vanica's testimony, because of the vagueness about destinations and because he refuses to use Karst because he perceives it as a competitor, can only be afforded very limited weight in the Commission's decision. However, to the degree that most of the customers he seeks to transport are within the area authorized by this order, at least some of the transportation desires he has can be met. Given testimony that Karst does not attempt to divert customers of travel agencies (TR 203), there appears no reason to believe that all of Vanica's transportation needs can be met by either Karst or Kal.

64. Testimony was introduced indicating the need for more service between isolated places in the state of Montana such as Plentywood, Wolf Point or Scobey, to and from Billings, Montana. An examination of the testimony of these witnesses indicated that their transportation requirements relate to service between these more remote areas of Montana and Billings, Montana.

The Commission is of the opinion that a need has been demonstrated for additional service in eastern Montana, namely between Billings, Montana and the remaining part of eastern Montana.

This is substantiated by the need for additional transportation service for emergency movements of fire fighting crews and because more remote areas of Montana such as Plentywood, Wolf Point and Scobey are without service.

65. Clearly the protestant in this proceeding has experienced a net loss of some severity during the last two years of its operations. However, the record is clear that Karst Stages, Inc., was providing service from Billings, Montana to all western Montana communities as was required by the public convenience and necessity. Accordingly, to minimize the operating loss of that carrier and to prevent a further diversion of revenue from that carrier, the Commission is unwilling to grant additional operating authority to points in western Montana, originating or terminating in Billings, Montana. As a result, that portion of the application should be denied.

66. The testimony of the representative of the Bureau of Land Management should be specifically discussed. This agency, as part of the United States Government, has the ability, under 69-12-324, MCA, to enter into contracts with carriers such as the Applicant whether or not this application is granted. None theless, this order will address the perceived needs of BLM's fire fighting activities.

#### CONCLUSIONS OF LAW

1. Montana Public Service Commission properly exercises jurisdiction over the parties and matters in this proceeding pursuant to Title 69, Chapter 12, MCA.

2. The Commission has provided adequate notice and opportunity to be heard to all interested parties in this matter.

3. Section 69-12-323(2), MCA, requires that "public convenience and necessity" be shown prior to the granting of additional operating authority.

4. Based upon the evidence in this record, the Commission finds that the public convenience and necessity requires the grant of the application for authority.

### ORDER

NOW, THEREFORE, IT IS ORDERED that on the basis of 69-12-323(2)(a), MCA, the application is granted as follows:

To transport passengers and baggage in charter service as a Class B:

1) Between all points and places in the following counties:

Phillips, Valley, Daniels, Sheridan, Roosevelt, Richland, Dawson, Wibaux, Prairie, McCone, Garfield, Petroleum, Wheatland, Golden Valley Musselshell, Treasure, Rosebud, Custer, Fallon, Carter, Powder River, Big Horn, Yellowstone, and Sweetgrass.

2) Between all points and places in the following counties subject to the following limitations:

Lincoln, Flathead, Glacier, Toole, Liberty, Hill, Blaine, Sanders, Lake, Pondera, Teton, Chouteau, Judith Basin, Cascade, Lewis and Clark, Powell, Missoula, Mineral, Ravalli, Granite, Deer Lodge, Silver Bow, Jefferson, Broadwater, Meagher, Parke, Gallatin, Madison, and Beaverhead.

Limitation: All transportation services originating or terminating in Billings, Montana is prohibited.

3) Transportation within Fergus, Stillwater and Carbon Counties is prohibited.



IT IS FURTHER ORDERED, that since a majority of the Montana Public Service Commission sat in hearing of Docket No. T-8503, that this decision be final.

IT IS FURTHER ORDERED, that a full, true and correct copy of this Order be sent forthwith by certified mail to Applicant herein and by first class United States mail to Protestant herein.

DONE AND DATED this 5th day of August, 1985 by a vote of 3-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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TOM MONAHAN, Commissioner and  
Hearing Examiner

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JOHN B. DRISCOLL, Commissioner

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DANNY OBERG, Commissioner

ATTEST:

Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See38.2.4806, ARM.